

Adopted	Rejected
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COMMITTEE REPORT

YES:	15
NO:	8

MR. SPEAKER:

*Your Committee on Ways and Means, to which was referred House Bill 1656, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning state
- 3 and local administration and to make an appropriation.
- 4 Page 1, delete lines 1 through 17, begin a new paragraph and insert:
- 5 "SECTION 1. IC 4-13-1-16.5 IS ADDED TO THE INDIANA
- 6 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 7 [EFFECTIVE UPON PASSAGE]: **Sec. 16.5. (a) As used in this**
- 8 **section, "covered transaction" means the award of a contract**
- 9 **under:**
- 10 (1) IC 4-13.6-6-2.8;
- 11 (2) IC 5-16-1-7.5;
- 12 (3) IC 8-10-1-7.7; or
- 13 (4) IC 8-23-9-4.6.

(b) As used in this section, "resident of Indiana" means a person who is at least eighteen (18) years of age and is one (1) of the following:

- (1) A person who has registered a motor vehicle in Indiana.
- (2) A person who is registered to vote in Indiana.
- (3) A person who has a child enrolled in an elementary or a secondary school located in Indiana.
- (4) A person who derives more than one-half (1/2) of the person's gross income (as defined in Section 61 of the Internal Revenue Code) from sources in Indiana, according to the provisions applicable to determining the source of adjusted gross income that are set forth in IC 6-3-2-2. However, a person who would otherwise be considered a resident of Indiana under this subdivision is not a resident of Indiana if a preponderance of the evidence concerning the factors set forth in subdivisions (1) through (3) proves that the person is not a resident of Indiana.

(c) Before October 1 of 2010 and each year thereafter, the commissioner shall compile, make available for public inspection, and submit to the legislative council a report for the preceding state fiscal year stating:

- (1) for the contractors awarded contracts in covered transactions; and
- (2) for the subcontractors with which the contractor referred to in subdivision (1) enter into subcontracts in connection with contracts awarded in covered transactions;

the percentage of the employees of the contractors and subcontractors who work on the contracts and are residents of Indiana. The report to the legislative council must be in an electronic format under IC 5-14-6.

SECTION 2. IC 4-13.6-6-2.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2.8. (a)** As used in this section, "resident of Indiana" means a person who is at least eighteen (18) years of age and is one (1) of the following:

- (1) A person who has registered a motor vehicle in Indiana.
- (2) A person who is registered to vote in Indiana.
- (3) A person who has a child enrolled in an elementary or a

secondary school located in Indiana.

(4) A person who derives more than one-half (1/2) of the person's gross income (as defined in Section 61 of the Internal Revenue Code) from sources in Indiana, according to the provisions applicable to determining the source of adjusted gross income that are set forth in IC 6-3-2-2. However, a person who would otherwise be considered a resident of Indiana under this subdivision is not a resident of Indiana if a preponderance of the evidence concerning the factors set forth in subdivisions (1) through (3) proves that the person is not a resident of Indiana.

(b) When entering a bid under this chapter for a public works project, each contractor shall provide the division with information on the number of residents of Indiana who will be employed by the contractor and the number of residents of Indiana who will be employed by any subcontractor of the contractor.

(c) A contract for a public works project may not be awarded to a contractor who does not:

- (1) employ residents of Indiana as at least eighty percent (80%) of the employees who work on the contract; and
- (2) enter into subcontracts only with subcontractors who employ residents of Indiana as at least eighty percent (80%) of the employees who work on the subcontract.

(d) Before August 15 of 2010 and each year thereafter, the division shall file with the commissioner a report for the preceding year stating:

- (1) for each contractor awarded a contract under this chapter; and
- (2) for each subcontractor with which a contractor referred to in subdivision (1) enters into a contract in connection with a contract awarded under this chapter;

the percentage of the employees of the contractor or subcontractor who work on the contract and are residents of Indiana.

(e) A contract awarded under this chapter for a public works project is terminated if the division determines that the contractor has failed to:

- (1) employ residents of Indiana as at least eighty percent (80%) of the employees who work on the contract; and

(2) enter into subcontracts only with subcontractors who employ residents of Indiana as at least eighty percent (80%) of the employees who work on the subcontract.

(f) A contractor or subcontractor who fails to employ residents of Indiana as at least eighty percent (80%) of the employees who work on the contract or subcontract commits a Class B infraction for each nonresident of Indiana employed in excess of the number of nonresident employees permitted by this section.

SECTION 3. IC 5-16-1-7.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.5. (a) As used in this section, "resident of Indiana" means a person who is at least eighteen (18) years of age and is one (1) of the following:

(1) A person who has registered a motor vehicle in Indiana.

(2) A person who is registered to vote in Indiana.

(3) A person who has a child enrolled in an elementary or a secondary school located in Indiana.

(4) A person who derives more than one-half (1/2) of the person's gross income (as defined in Section 61 of the Internal Revenue Code) from sources in Indiana, according to the provisions applicable to determining the source of adjusted gross income that are set forth in IC 6-3-2-2. However, a person who would otherwise be considered a resident of Indiana under this subdivision is not a resident of Indiana if a preponderance of the evidence concerning the factors set forth in subdivisions (1) through (3) proves that the person is not a resident of Indiana.

(b) When entering into a contract under this chapter, each contractor shall provide the state or commission with information on the number of residents of Indiana who will be employed by the contractor and the number of residents of Indiana who will be employed by any subcontractor of the contractor.

(c) A contract for a public works project under this chapter may not be awarded to a contractor who does not:

(1) employ residents of Indiana as at least eighty percent (80%) of the employees who work on the contract; and

(2) enter into subcontracts only with subcontractors who employ residents of Indiana as at least eighty percent (80%)

1 of the employees who work on the subcontract.

2 (d) Before August 15 of 2010 and each year thereafter, the state
3 or a commission entering into contracts under this chapter shall
4 file with the commissioner of the Indiana department of
5 administration a report stating:

6 (1) for each contractor awarded a contract under this
7 chapter; and

8 (2) for each subcontractor with which a contractor referred
9 to in subdivision (1) enters into a contract in connection with
10 a contract awarded under this chapter;

11 the percentage of the employees of the contractor or subcontractor
12 who work on the contract and are residents of Indiana.

13 (e) A contract awarded under this chapter for a public works
14 project is terminated if the state or commission determines that the
15 contractor has failed to:

16 (1) employ residents of Indiana as at least eighty percent
17 (80%) of the employees who work on the contract; and

18 (2) enter into subcontracts only with subcontractors who
19 employ residents of Indiana as at least eighty percent (80%)
20 of the employees who work on the subcontract.

21 (f) A contractor or subcontractor who fails to employ residents
22 of Indiana as at least eighty percent (80%) of the employees who
23 work on the contract or subcontract commits a Class B infraction
24 for each nonresident of Indiana employed in excess of the number
25 of nonresident employees permitted by this section.

26 SECTION 4. IC 5-16-8-1, AS AMENDED BY P.L.3-2008,
27 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
28 UPON PASSAGE]: Sec. 1. (a) The definitions in this section apply
29 throughout this chapter.

30 (b) "Foundry products" means products cast from ferrous and
31 nonferrous metals by foundries in ~~the United States.~~ **Indiana.**

32 (c) "Person" means a natural person, corporation, limited liability
33 company, partnership, or other business unit or association.

34 (d) "Public agency" means:

35 (1) the state of Indiana;

36 (2) a department, agency, board, commission, or institution of the
37 state of Indiana; or

38 (3) a county, city, township, school or conservancy district, or

1 other governmental unit or district;
 2 that receives public bids for construction or other public works under
 3 Indiana law.

4 (e) "Steel products" means products rolled, formed, shaped, drawn,
 5 extruded, forged, cast, fabricated, or otherwise similarly processed, or
 6 processed by a combination of two (2) or more of such operations, from
 7 steel made in ~~the United States~~ **Indiana** by the open hearth, basic
 8 oxygen, electric furnace, Bessemer, or other steel making process.

9 (f) ~~"United States" refers to the United States of America. The term~~
 10 ~~includes all territory, continental or insular, subject to the jurisdiction~~
 11 ~~of the United States.~~

12 SECTION 5. IC 5-16-8-2, AS AMENDED BY P.L.6-2007,
 13 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 UPON PASSAGE]: Sec. 2. (a) Each public agency shall require that
 15 every contract for the construction, reconstruction, alteration, repair,
 16 improvement or maintenance of public works contain a provision that,
 17 if any steel or foundry products are to be used or supplied in the
 18 performance of the contract or subcontract, only steel or foundry
 19 products made in ~~the United States~~ **Indiana** shall be used or supplied
 20 in the performance of the contract or any of the subcontracts unless the
 21 head of the public agency determines, in writing, that the cost of steel
 22 or foundry products is considered to be unreasonable.

23 (b) The head of each public agency shall issue rules which provide
 24 that, for purposes of subsection (a), the bid or offered price of any steel
 25 or foundry products of ~~domestic~~ **Indiana** origin is not considered
 26 unreasonable if the price does not exceed the sum of:

27 (1) the bid or offered price of like steel or foundry products ~~of~~
 28 ~~foreign origin~~ **originating outside Indiana** (including any
 29 applicable duty); plus

30 (2) a differential of fifteen percent (15%) of the bid or offered
 31 price of the steel or foundry products ~~of foreign origin.~~
 32 **originating outside Indiana.**

33 However, the fifteen percent (15%) differential provided by
 34 subdivision (2) may be increased to twenty-five percent (25%), if the
 35 head of the public agency determines that use of steel or foundry
 36 products of ~~domestic~~ **Indiana** origin would benefit the local or state
 37 economy through improved job security and employment opportunity.
 38 Whenever the head of a public agency determines that the differential

should be increased above fifteen percent (15%) for a particular project, the head of the agency shall file a report with the governor and the legislative services agency detailing the reasons for such determination and the probable impact on the economy of the use of ~~domestic~~ **Indiana** steel or foundry castings in the project. A report filed under this subsection with the legislative services agency must be in an electronic format under IC 5-14-6.

SECTION 6. IC 5-16-8-4, AS AMENDED BY P.L.6-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. This chapter does not apply if the head of the public agency determines, in writing, that steel or foundry products are not produced in ~~the United States~~ **Indiana** in sufficient quantities to meet the requirements of the contract.

SECTION 7. IC 5-16-8-6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6. (a) The Indiana department of administration shall develop criteria for determining whether steel or foundry products are produced in Indiana.**

(b) The Indiana department of administration shall do the following:

(1) Publish on an Internet web site the criteria developed under subsection (a).

(2) Maintain on an Internet web site a list of businesses and products that meet the criteria developed under subsection (a).

SECTION 8. IC 5-16-13 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 13. Procurement for Public Works Projects

Sec. 1. This chapter does not apply to the terms of a contract that are subject to IC 5-16-8 for the procurement of steel or foundry products.

Sec. 2. (a) The definitions in this section apply throughout this chapter.

(b) "Person" means an individual, corporation, limited liability company, partnership, or other business unit or association.

(c) "Public agency" means:

(1) the state of Indiana;

(2) a department, agency, board, commission, or institution of the state of Indiana; or

(3) a county, city, township, school or conservancy district, or other governmental unit or district;

that receives public bids for construction or other public works under Indiana law.

Sec. 3. Each public agency shall require that every contract for the construction, reconstruction, alteration, repair, improvement or maintenance of a public works project contain a provision that, if any materials, equipment, or other durable goods are to be used or supplied in the performance of the contract or subcontract, only materials, equipment, or durable goods made in Indiana may be used or supplied in the performance of the contract or any of the subcontracts unless the head of the public agency determines, in writing, that the cost of Indiana products is considered to be unreasonable.

Sec. 4. The head of each public agency shall issue rules that provide that, for purposes of section 3 of this chapter, the bid or offered price of any material, equipment, or durable good made in Indiana is not considered unreasonable if the price does not exceed the sum of:

(1) the bid or offered price of like materials, equipment, or durable goods of foreign origin (including any applicable duty); plus

(2) a differential of fifteen percent (15%) of the bid or offered price of the materials, equipment, or durable goods of foreign origin.

However, the fifteen percent (15%) differential provided by subdivision (2) may be increased to twenty-five percent (25%), if the head of the public agency determines that use of material, equipment, or durable goods made in Indiana would benefit the local or state economy through improved job security and employment opportunity. Whenever the head of a public agency determines that the differential should be increased above fifteen percent (15%) for a particular qualified project, the head of the agency shall file a report with the governor and the legislative services agency detailing the reasons for that determination and the probable impact on the economy of the use of material,

1 equipment, or durable goods made in Indiana in public works
 2 project. A report filed under this subsection with the legislative
 3 services agency must be in an electronic format under IC 5-14-6.

4 **Sec. 5.** A public agency may not authorize or make any
 5 payments to a person under a contract for a public works project
 6 containing the provision required by section 3 of this chapter
 7 unless the public agency is satisfied that the person has fully
 8 complied with that provision. Payments made to a person by a
 9 public agency that should not have been made as a result of this
 10 section are recoverable directly from the contractor or
 11 subcontractor who did not comply with section 2 of this chapter by
 12 the attorney general upon suit filed in the circuit court of the
 13 county in which the contract for the qualified project was executed
 14 or performed.

15 **Sec. 6.** This chapter does not apply if the head of the public
 16 agency determines, in writing, that the materials, equipment, and
 17 durable goods required for a public works project are not
 18 produced in Indiana in sufficient quantities to meet the
 19 requirements of the contract for the qualified project.

20 **Sec. 7. (a)** The Indiana department of administration shall
 21 develop criteria for determining whether materials, equipment,
 22 and durable goods commonly required for public works projects
 23 are produced in Indiana.

24 **(b)** The Indiana department of administration shall do the
 25 following:

26 (1) Publish on an Internet web site the criteria developed
 27 under subsection (a).

28 (2) Maintain on an Internet web site a list of businesses and
 29 materials, equipment, and durable goods that meet the
 30 criteria developed under subsection (a).

31 **Sec. 8.** This chapter is designed to promote the general welfare
 32 of the people of Indiana and is supplemental to all laws concerning
 33 public works and shall be liberally construed to fully effectuate its
 34 purposes.

35 SECTION 9. IC 8-10-1-7.7 IS ADDED TO THE INDIANA CODE
 36 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 37 UPON PASSAGE]: **Sec. 7.7. (a)** As used in this section, "resident of
 38 Indiana" means a person who is at least eighteen (18) years of age

1 and is one (1) of the following:

- 2 (1) A person who has registered a motor vehicle in Indiana.
3 (2) A person who is registered to vote in Indiana.
4 (3) A person who has a child enrolled in an elementary or a
5 secondary school located in Indiana.
6 (4) A person who derives more than one-half (1/2) of the
7 person's gross income (as defined in Section 61 of the Internal
8 Revenue Code) from sources in Indiana, according to the
9 provisions applicable to determining the source of adjusted
10 gross income that are set forth in IC 6-3-2-2. However, a
11 person who would otherwise be considered a resident of
12 Indiana under this subdivision is not a resident of Indiana if
13 a preponderance of the evidence concerning the factors set
14 forth in subdivisions (1) through (3) proves that the person is
15 not a resident of Indiana.

16 (b) When entering into a contract under this chapter, each
17 contractor shall provide the commission with information on the
18 number of residents of Indiana who will be employed by the
19 contractor and the number of residents of Indiana who will be
20 employed by any subcontractor of the contractor.

21 (c) A contract for a public works project under this chapter may
22 not be awarded to a contractor who does not:

- 23 (1) employ residents of Indiana as at least eighty percent
24 (80%) of the employees of the contractor who work on the
25 contract; and
26 (2) enter into subcontracts only with subcontractors who
27 employ residents of Indiana as at least eighty percent (80%)
28 of the employees who work on the subcontract.

29 (d) Before August 15 of 2010 and each year thereafter, the
30 commission shall file with the commissioner of the Indiana
31 department of administration a report stating:

- 32 (1) for each contractor awarded a contract under this
33 chapter; and
34 (2) for each subcontractor with which a contractor referred
35 to in subdivision (1) enters into a contract in connection with
36 a contract awarded under this chapter;

37 the percentage of the employees of the contractor or subcontractor
38 who work on the contract and are residents of Indiana.

1 **(e) A contract awarded under this chapter for a public works**
 2 **project is terminated if the commission determines that the**
 3 **contractor has failed to:**

4 **(1) employ residents of Indiana as at least eighty percent**
 5 **(80%) of the employees who work on the contract; and**

6 **(2) enter into subcontracts only with subcontractors who**
 7 **employ residents of Indiana as at least eighty percent (80%)**
 8 **of the employees who work on the subcontract.**

9 **(f) A contractor or subcontractor who fails to employ residents**
 10 **of Indiana as at least eighty percent (80%) of the employees who**
 11 **work on the contract or subcontract commits a Class B infraction**
 12 **for each nonresident of Indiana employed in excess of the number**
 13 **of nonresident employees permitted by this section.**

14 SECTION 10. IC 8-15-2-1, AS AMENDED BY P.L.1-2007,
 15 SECTION 80, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 UPON PASSAGE]: Sec. 1. (a) In order to remove the handicaps and
 17 hazards on the congested highways in Indiana, to facilitate vehicular
 18 traffic throughout the state, to promote the agricultural and industrial
 19 development of the state, and to provide for the general welfare by the
 20 construction of modern express highways embodying safety devices,
 21 including center division, ample shoulder widths, long sight distances,
 22 multiple lanes in each direction, and grade separations at intersections
 23 with other highways and railroads, the authority may:

24 (1) subject to subsection (d), construct, reconstruct, maintain,
 25 repair, and operate toll road projects at such locations as shall be
 26 approved by the governor;

27 (2) in accordance with such alignment and design standards as
 28 shall be approved by the authority and subject to IC 8-9.5-8-10,
 29 issue toll road revenue bonds of the state payable solely from
 30 funds pledged for their payment, as authorized by this chapter, to
 31 pay the cost of such projects;

32 (3) finance, develop, construct, reconstruct, improve, or maintain
 33 improvements for manufacturing, commercial, or public
 34 transportation activities within a county through which a toll road
 35 passes;

36 (4) in cooperation with the Indiana department of transportation
 37 or a political subdivision, construct, reconstruct, or finance the
 38 construction or reconstruction of an arterial highway or an arterial

street that is located within a county through which a toll road passes and that:

(A) interchanges with a toll road project; or

(B) intersects with a road or a street that interchanges with a toll road project;

(5) finance improvements necessary for developing transportation corridors in northwestern Indiana; and

(6) exercise these powers in participation with any governmental entity or with any individual, partnership, limited liability company, or corporation.

(b) Notwithstanding subsection (a), the authority shall not construct, maintain, operate, nor contract for the construction, maintenance, or operation of transient lodging facilities on, or adjacent to, such toll road projects.

(c) This chapter:

(1) applies to the authority only when acting for the purposes set forth in this chapter; and

(2) does not apply to the authority when acting under any other statute for any other purpose.

(d) Notwithstanding any other law, neither the authority nor an operator selected under IC 8-15.5 may carry out any of the following activities under this chapter unless the general assembly enacts a statute authorizing that activity:

(1) Carrying out construction for Interstate Highway 69 in a township having a population of more than seventy-five thousand (75,000) and less than ninety-three thousand five hundred (93,500).

(2) Imposing tolls on motor vehicles for use of the part of an interstate highway that connects a consolidated city and a city having a population of more than eleven thousand five hundred (11,500) but less than eleven thousand seven hundred forty (11,740). **Interstate Highway 64.**

SECTION 11. IC 8-15-3-9, AS AMENDED BY P.L.47-2006, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) Subject to subsection (e), the governor must approve the location of any tollway.

(b) The department may, in any combination, plan, design, develop, construct, reconstruct, maintain, repair, police, finance, and operate

1 tollways, public improvements, and arterial streets and roads at those
2 locations that the governor approves.

3 (c) The department may, in any combination, plan, design, develop,
4 construct, reconstruct, improve, finance, operate, repair, or maintain
5 public improvements such as roads and streets, sewer lines, water lines,
6 and other utilities if these improvements are:

7 (1) adjacent or appurtenant to a tollway; or

8 (2) necessary or desirable for the financing, construction,
9 operation, or maintenance of a tollway.

10 (d) The department may, in any combination, plan, design, develop,
11 construct, reconstruct, improve, maintain, repair, operate, or finance
12 the construction or reconstruction of an arterial highway or an arterial
13 street that:

14 (1) is adjacent to, appurtenant to, or interchanges with a tollway;
15 or

16 (2) intersects with a road or street that interchanges with a
17 tollway.

18 (e) Notwithstanding any other law, the governor, the department, or
19 an operator may not carry out any of the following activities under this
20 chapter unless the general assembly enacts a statute authorizing that
21 activity:

22 (1) Approve the location of a tollway ~~other than Interstate~~
23 ~~Highway 69~~ between Interstate Highway 64 and a **consolidated**
24 ~~city. having a population of more than eleven thousand five~~
25 ~~hundred (11,500) but less than eleven thousand seven hundred~~
26 ~~forty (11,740).~~

27 (2) Carry out construction for Interstate Highway 69 in a township
28 having a population of more than seventy-five thousand (75,000)
29 and less than ninety-three thousand five hundred (93,500).

30 (3) Impose tolls on motor vehicles for use of the part of an
31 interstate highway that connects a consolidated city and ~~a city~~
32 ~~having a population of more than eleven thousand five hundred~~
33 ~~(11,500) but less than eleven thousand seven hundred forty~~
34 ~~(11,740).~~ **Interstate Highway 64.**

35 SECTION 12. IC 8-15.5-1-2, AS ADDED BY P.L.47-2006,
36 SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
37 UPON PASSAGE]: Sec. 2. (a) This article contains full and complete
38 authority for public-private agreements between the authority and a

private entity. Except as provided in this article, no law, procedure, proceeding, publication, notice, consent, approval, order, or act by the authority or any other officer, department, agency, or instrumentality of the state or any political subdivision is required for the authority to enter into a public-private agreement with a private entity under this article, or for a toll road project that is the subject of a public-private agreement to be constructed, acquired, maintained, repaired, operated, financed, transferred, or conveyed.

(b) Notwithstanding any other law, after August 1, 2006, neither the authority nor the department may:

(1) issue a request for proposals for; or

(2) enter into;

a public-private agreement under this article that would authorize an operator to impose tolls for the operation of motor vehicles on all or part of a project, unless the general assembly adopts a statute authorizing the imposition of tolls.

(c) Notwithstanding any other law, neither the authority nor an operator may carry out any of the following activities under this article unless the general assembly enacts a statute authorizing that activity:

(1) Carrying out construction for Interstate Highway 69 in a township having a population of more than seventy-five thousand (75,000) and less than ninety-three thousand five hundred (93,500).

(2) Imposing tolls on motor vehicles for use of the part of an interstate highway that connects a consolidated city and a city having a population of more than eleven thousand five hundred (~~(11,500)~~) but less than eleven thousand seven hundred forty (~~(11,740)~~). **Interstate Highway 64.**

SECTION 13. IC 8-15.7-1-5, AS AMENDED BY P.L.203-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) This article contains full and complete authority for agreements and leases with private entities to carry out the activities described in this article. Except as provided in this article, no procedure, proceeding, publication, notice, consent, approval, order, or act by the authority, the department, or any other state or local agency or official is required to enter into an agreement or lease, and no law to the contrary affects, limits, or diminishes the authority for agreements and leases with private entities, except as provided by this article.

(b) Notwithstanding any other law, the department, the authority, or an operator may not carry out any of the following activities under this article unless the general assembly enacts a statute authorizing that activity:

(1) Issuing a request for proposals for, or entering into, a public-private agreement concerning a project ~~other than Interstate Highway 69~~ between Interstate Highway 465 and Interstate Highway 64.

(2) Carrying out construction for Interstate Highway 69 in a township having a population of more than seventy-five thousand (75,000) and less than ninety-three thousand five hundred (93,500).

(3) Imposing user fees on motor vehicles for use of the part of an interstate highway that connects a consolidated city and ~~a city having a population of more than eleven thousand five hundred (11,500) but less than eleven thousand seven hundred forty (11,740).~~ **Interstate Highway 64.**

(c) Notwithstanding subsection (b) or any other law, the department or the authority may enter into a public-private agreement concerning a project consisting of a passenger or freight railroad system described in IC 8-15.7-2-14(a)(4). Such an agreement is subject to review and appropriation by the general assembly. However, this subsection does not prohibit the department from:

(1) conducting preliminary studies that the department considers necessary to determine the feasibility of such a project; or

(2) issuing a request for qualifications or a request for proposals, or both, under IC 8-15.7-4 for such a project.

SECTION 14. IC 8-23-7-22, AS AMENDED BY P.L.47-2006, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) Subject to subsection (b), the department may, after issuing an order and receiving the governor's approval, determine that a state highway should become a tollway. After the order becomes effective, the department shall maintain and operate the tollway and levy and collect tolls as provided in IC 8-15-3 or enter into a public-private agreement with an operator with respect to the tollway under IC 8-15.7. Before issuing an order under this section, the department shall submit to the governor a plan to bring the tollway to the current design standards of the department for new state

highways within a specified period. The specified period may not exceed five (5) years.

(b) Notwithstanding any other law, the governor, the department, or an operator may not carry out any of the following activities under this section unless the general assembly enacts a statute authorizing that activity:

(1) Determine that a highway ~~other than Interstate Highway 69~~ between Interstate Highway 64 and a **consolidated** city ~~having a population of more than eleven thousand five hundred (11,500) but less than eleven thousand seven hundred forty (11,740);~~ should become a tollway.

(2) Carry out construction for Interstate Highway 69 in a township having a population of more than seventy-five thousand (75,000) and less than ninety-three thousand five hundred (93,500).

(3) Impose tolls on motor vehicles for use of the part of an interstate highway that connects a consolidated city and ~~a city having a population of more than eleven thousand five hundred (11,500) but less than eleven thousand seven hundred forty (11,740);~~ **Interstate Highway 64.**

SECTION 15. IC 8-23-7-23, AS AMENDED BY P.L.47-2006, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. (a) Subject to subsection (c), the department may, after issuing an order and receiving the governor's approval, determine that a state highway should become a toll road. An order under this section does not become effective unless the authority adopts a resolution to accept the designated state highway, or part of the highway, as a toll road project under the conditions contained in the order. An order issued by the department under this section must set forth the conditions upon which the transfer of the state highway, or part of the highway, to the authority must occur, including the following:

(1) The consideration, if any, to be paid by the authority to the department.

(2) A requirement that the authority:

(A) enter into a contract or lease with the department with respect to the toll road project under IC 8-9.5-8-7 or IC 8-9.5-8-8; or

(B) enter into a public-private agreement with an operator with

1 respect to the toll road under IC 8-15.5.

2 (b) To complete a transfer under this section, the department must,
3 with the governor's approval, execute a certificate describing the real
4 and personal property constituting or to be transferred with the state
5 highway that is to become a toll road project. Upon delivery of the
6 certificate to the authority, the real and personal property described in
7 the certificate is under the jurisdiction and control of the authority.

8 (c) Notwithstanding any other law, neither the authority nor an
9 operator may carry out any of the following activities under this section
10 unless the general assembly enacts a statute authorizing that activity:

11 (1) Carrying out construction for Interstate Highway 69 in a
12 township having a population of more than seventy-five thousand
13 (75,000) and less than ninety-three thousand five hundred
14 (93,500).

15 (2) Imposing tolls on motor vehicles for use of the part of an
16 interstate highway that connects a consolidated city and a city
17 having a population of more than eleven thousand five hundred
18 (~~11,500~~) but less than eleven thousand seven hundred forty
19 (~~11,740~~). **Interstate Highway 64.**

20 SECTION 16. IC 8-23-9-4.6 IS ADDED TO THE INDIANA CODE
21 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
22 UPON PASSAGE]: **Sec. 4.6. (a) As used in this section, "resident of**
23 **Indiana" means a person who is at least eighteen (18) years of age**
24 **and is one (1) of the following:**

25 (1) **A person who has registered a motor vehicle in Indiana.**

26 (2) **A person who is registered to vote in Indiana.**

27 (3) **A person who has a child enrolled in an elementary or a**
28 **secondary school located in Indiana.**

29 (4) **A person who derives more than one-half (1/2) of the**
30 **person's gross income (as defined in Section 61 of the Internal**
31 **Revenue Code) from sources in Indiana, according to the**
32 **provisions applicable to determining the source of adjusted**
33 **gross income that are set forth in IC 6-3-2-2. However, a**
34 **person who would otherwise be considered a resident of**
35 **Indiana under this subdivision is not a resident of Indiana if**
36 **a preponderance of the evidence concerning the factors set**
37 **forth in subdivisions (1) through (3) proves that the person is**
38 **not a resident of Indiana.**

(b) When entering into a contract under this chapter, each contractor shall provide the department with information on the number of residents of Indiana who will be employed by the contractor and the number of residents of Indiana who will be employed by any subcontractor of the contractor.

(c) A contract for a public works project under this chapter may not be awarded to a contractor who does not:

(1) employ residents of Indiana as at least eighty percent (80%) of the employees of the contractor who work on the contract; and

(2) enter into subcontracts only with subcontractors who employ residents of Indiana as at least eighty percent (80%) of the employees working on the subcontract.

(d) Before August 15 of 2010 and each year thereafter, the department shall file with the commissioner of the Indiana department of administration a report stating:

(1) for each contractor awarded a contract under this chapter; and

(2) for each subcontractor with which a contractor referred to in subdivision (1) enters into a contract in connection with a contract awarded under this chapter;

the percentage of the employees of the contractor or subcontractor who work on the contract and are residents of Indiana.

(e) A contract awarded under this chapter for a public works project is terminated if the department determines that the contractor has failed to:

(1) employ residents of Indiana as at least eighty percent (80%) of the employees who work on the contract; and

(2) enter into subcontracts only with subcontractors who employ residents of Indiana as at least eighty percent (80%) of the employees who work on the subcontract.

(f) A contractor or subcontractor who fails to employ residents of Indiana as at least eighty percent (80%) of the employees who work on the contract or subcontract commits a Class B infraction for each nonresident of Indiana employed in excess of the number of nonresident employees permitted by this section.

SECTION 17. IC 36-1-12-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS

[EFFECTIVE UPON PASSAGE]: Sec. 5.5. (a) As used in this section, "resident of Indiana" means a person who is at least eighteen (18) years of age and is one (1) of the following:

- (1) A person who has registered a motor vehicle in Indiana.
- (2) A person who is registered to vote in Indiana.
- (3) A person who has a child enrolled in an elementary or a secondary school located in Indiana.
- (4) A person who derives more than one-half (1/2) of the person's gross income (as defined in Section 61 of the Internal Revenue Code) from sources in Indiana, according to the provisions applicable to determining the source of adjusted gross income that are set forth in IC 6-3-2-2. However, a person who would otherwise be considered a resident of Indiana under this subdivision is not a resident of Indiana if a preponderance of the evidence concerning the factors set forth in subdivisions (1) through (3) proves that the person is not a resident of Indiana.

(b) When entering a bid under this chapter, each contractor shall provide the unit of local government with information on the number of residents of Indiana who will be employed by the contractor and the number of residents of Indiana who will be employed by any subcontractor of the contractor.

(c) A contract for a public works project under this chapter may not be awarded to a contractor who does not:

- (1) employ residents of Indiana as at least eighty percent (80%) of the employees of the contractor who work on the contract; and
- (2) enter into subcontracts only with subcontractors who employ residents of Indiana as at least eighty percent (80%) of the employees working on the subcontract.

(d) A contract awarded under this chapter for a public works project is terminated if the unit determines that the contractor has failed to:

- (1) employ residents of Indiana as at least eighty percent (80%) of the employees who work on the contract; and
- (2) enter into subcontracts only with subcontractors who employ residents of Indiana as at least eighty percent (80%) of the employees who work on the subcontract.

(e) A contractor or subcontractor who fails to employ residents of Indiana as at least eighty percent (80%) of the employees who work on the contract or subcontract commits a Class B infraction for each nonresident of Indiana employed in excess of the number of nonresident employees permitted by this section."

Delete pages 2 through 5.

Page 6, delete lines 1 through 4.

Page 6, between lines 30 and 31, begin a new paragraph and insert:

"(c) Not more than thirty (30) days after accepting economic stimulus funds, the governor shall submit a report to the general assembly containing the governor's recommendations for the expenditure of the economic stimulus funds. The report required by this subsection must be submitted in an electronic format under IC 5-14-6."

Page 6, line 31, delete "(c)" and insert "(d)".

Page 6, delete lines 32 through 42, begin a new paragraph and insert:

"SECTION 13. [EFFECTIVE JULY 1, 2009] (a) For the period beginning July 1, 2009, and ending June 30, 2011, there is appropriated from the major moves construction fund the following amounts:

(1) Four hundred million dollars (\$400,000,000) for the counties of Indiana.

(2) Four hundred million dollars (\$400,000,000) for the cities and towns of Indiana.

(3) Two hundred million dollars (\$200,000,000) to the Indiana department of transportation.

(b) The amounts appropriated under subsection (a) are subject to the limitations set forth in this subsection. Money appropriated under subsection (a) may not include any money that as of January 1, 2009 has been:

(1) appropriated and allotted to;

(2) appropriated to; or

(3) planned by;

the Indiana department of transportation for expenditure on the extension of Interstate Highway 69 from Indianapolis to Evansville.

(c) The amounts appropriated under subsection (a) must be

1 reduced proportionally if the result of subtracting the money
2 described in subsection (b) from the balance of the major moves
3 construction fund is insufficient to fully fund the appropriations set
4 forth in subsection (a).

5 (d) Money appropriated under subsection (a)(1) must be
6 distributed to the counties according to the ratio that the
7 population of each county bears to the total population of all
8 counties. The population totals used for purposes of the local road
9 and street account under IC 8-14-2 must be used for the purposes
10 of this subsection.

11 (e) Money appropriated under subsection (a)(2) must be
12 distributed to the cities and towns according to the ratio that the
13 population of each city and town bears to the total population of all
14 cities and towns. The population totals used for distributions from
15 the motor vehicle highway account under IC 8-14-1-3 must be used
16 for the purposes of this subsection.

17 (f) Each county, city, or town receiving money under this
18 SECTION shall keep the money in a separate account. Money
19 received under this SECTION may be used only for the
20 construction or reconstruction and maintenance of streets and
21 alleys. The fiscal body of a county, city, or town shall appropriate
22 the money received under this SECTION for a shovel ready project
23 before January 1, 2011. Any money that is not appropriated in
24 compliance with this subsection is forfeited to the state. The fiscal
25 officer of a county, city, or town that holds forfeited money in the
26 separate account required by this subsection shall transfer the
27 forfeited amount to the treasurer of state before February 1, 2011.
28 The treasurer of state shall deposit any money received under this
29 subsection in the major moves construction fund.

30 (g) Money appropriated under subsection (a)(3) shall be used by
31 the Indiana department of transportation to obtain federal
32 highway matching funds. The purpose of the appropriation is to
33 supplement the federal highway matching funds obtained with
34 money appropriated to the department under all other laws. The
35 department may not divert money received from an appropriation
36 for formal contract expenses to any purpose that does not qualify
37 for federal highway matching funds.

38 (h) This SECTION expires July 1, 2011."

- 1 Delete page 7.
- 2 Page 8, delete lines 1 through 3.
- 3 Renumber all SECTIONS consecutively.
(Reference is to HB 1656 as printed January 16, 2009.)

and when so amended that said bill do pass.

Representative Crawford